



**ORGANIZATION  
FOR THE PROMOTION  
AND ADVANCEMENT  
OF SMALL  
TELECOMMUNICATIONS  
COMPANIES**

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GN Docket No. 96-113

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**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554**

In the Matter of	)	
	)	
	)	
Geographic Partitioning and Spectrum	)	WT Docket No. 96-148
Disaggregation by Commercial Mobile	)	
Radio Services Licensees	)	
	)	
Implementation of Section 257 of the	)	GN Docket No. 96-113
Communications Act -	)	
Elimination of Market Entry Barriers	)	

**REPLY COMMENTS OF  
THE ORGANIZATION FOR THE PROMOTION AND  
ADVANCEMENT OF SMALL TELECOMMUNICATIONS COMPANIES**

**I. INTRODUCTION**

Numerous parties filed comments on February 10, 1997 in response to the Federal Communications Commission's (FCC or Commission) Report and Order and Further Notice of Proposed Rulemaking<sup>1</sup> regarding the matter of geographic partitioning and

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<sup>1</sup>In the Matter of Geographic Partitioning and Spectrum Disaggregation by Commercial Mobile Radio Services Licensees, WT Docket No. 96-148, Implementation of Section 257 of the Communications Act - Elimination of Market Entry Barriers, GN Docket No. 96-113, Report and Order and Further Notice of Proposed Rulemaking, FCC 96-474 (released December 20, 1996). (Further Notice)

spectrum disaggregation by Commercial Mobile Radio Services (CMRS) licensees. The Organization for the Promotion and Advancement of Small Telecommunications Companies (OPASTCO) is compelled to submit reply comments in response to the commenters' general lack of attention to the Commission's proposal to permit General Wireless Communications Services (GWCS) licensees to partition or disaggregate spectrum to entities other than rural telephone companies.<sup>2</sup> OPASTCO is concerned that the removal of the exclusive partitioning arrangement eliminates an effective incentive for GWCS licensees to negotiate with rural telephone companies, thus jeopardizing the development and rapid deployment of new technologies in rural areas.

**II. IN ACCORDANCE WITH THE COMMUNICATIONS ACT, AS AMENDED, THE COMMISSION MUST PROVIDE AN INCENTIVE TO ENCOURAGE RURAL PARTICIPATION IN THE DEPLOYMENT OF NEW GWCS TECHNOLOGIES**

Congress clearly intended that rural areas of the country should enjoy the benefits of wireless services when it stated in Section 309(j)(3)(A) of the Communications Act, as amended, the need for "the development and rapid deployment of new technologies, products, and services for the benefit of the public, including those residing in rural areas, without

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<sup>2</sup>Further Notice at para. 96.

administrative or judicial delays."<sup>3</sup> The Commission was cognizant of this fact when it was developing its competitive bidding rules allowing rural telephone companies the exclusive right to receive a partitioned license. Now, the Commission is proposing to eliminate this rural provision for GWCS as it did for PCS, thus eradicating any significant incentive for licensees to consider partitioning to rural telcos. OPASTCO was concerned about the provision of PCS services in rural areas in the original Notice of Proposed Rulemaking<sup>4</sup> and questioned the Commission's proposal to liberalize the geographic partitioning rules by removing rural telcos' exclusive right of partitioning.<sup>5</sup> OPASTCO argued that liberalizing the partitioning rules could lead to PCS providers "ignoring over ninety percent of the geographic area"<sup>6</sup> in rural regions. Now, the same possibility holds true for GWCS services in rural areas.

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<sup>3</sup>47 U.S.C. Section 309(j)(3)(A).

<sup>4</sup>In the Matter of Geographic Partitioning and Spectrum Disaggregation by Commercial Mobile Radio Services Licensees, WT Docket No. 96-148, Implementation of Section 257 of the Communications Act - Elimination of Market Entry Barriers, GN Docket No. 96-113, Notice of Proposed Rulemaking, FCC 96-287 (released July 15, 1996). (Original Notice)

<sup>5</sup>OPASTCO comments in Original Notice at p. 4.

<sup>6</sup>Id. at page 8.

As the sole commenter to address the rural issue, the RTG points out that, "[b]y proposing to eliminate the exclusive partitioning agreement between rural telecom providers and GWCS licensees, the Commission is opening the door for entities who have no desire or plans to serve rural areas..."<sup>7</sup> Additionally, the RTG demonstrates that "eliminating rural telecom providers' exclusive right to receive partitioned GWCS licenses significantly diminishes the only remaining designated entity preference they receive."<sup>8</sup> Both of these results are contrary to the Congressional mandate to speed new services to all areas of the country. Without the rural partitioning provision, there is a distinct possibility that GWCS licensees will have no robust incentive to partition spectrum and negotiate with rural telcos.

Rural subscribers need to have a real chance at access to advanced services such as interactive educational and medical technologies that GWCS can provide. The "special provision for small businesses"<sup>9</sup> that would remain, absent exclusive partitioning, is hardly an incentive for a GWCS licensee to

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<sup>7</sup>RTG comments at p. 4.

<sup>8</sup>Id. at p. 5.

<sup>9</sup>Further Notice at para. 13.

bargain with a rural telephone company when the licensee can "strike more lucrative partitioning deals"<sup>10</sup> with larger entities desiring a much larger geographic area. In keeping with the Congressional commitment to "the public, including those residing in rural areas"<sup>11</sup>, the Commission must provide an incentive that will allow rural telco participation in the delivery of GWCS technologies. Absent any new, meaningful incentive, the Commission's proposed elimination of the rural provision effectively abandons the rural emphasis of Section 309(j)(A).

### **III. CONCLUSION**

The Commission cannot simply abandon the rural mandates contained within Section 309(j). Originally, the FCC decided that the exclusive rural partitioning agreement was the best way to ensure the delivery of wireless services to rural areas. The Commission and commenters have yet to explain how the removal of this rule will now accomplish Congress' goal. If the Commission insists on eliminating the rural partitioning provision, it must offer a meaningful substitute that will ensure that rural

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<sup>10</sup>RTG comments at p. 4.

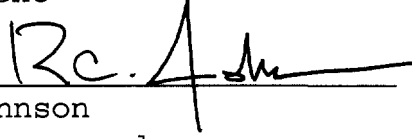
<sup>11</sup>47 U.S.C. Section 309(j)(3)(A).

telephone companies will have the opportunity to provide spectrum based services to rural consumers.

Respectfully submitted,

**THE ORGANIZATION FOR THE  
PROMOTION AND ADVANCEMENT  
OF SMALL TELECOMMUNICATIONS  
COMPANIES**

By:   
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President

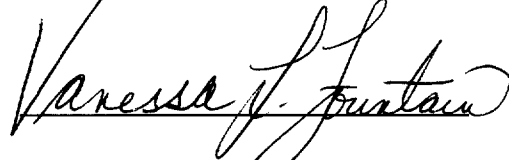
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February 25, 1997

## CERTIFICATE OF SERVICE

I, Vanessa L. Fountain, hereby certify that a copy of OPASTCO's reply comments was sent on this, the 25th day of February, 1997 by first class United States mail, postage prepaid, to those listed on the attached sheet.

A handwritten signature in cursive script, reading "Vanessa L. Fountain", written over a horizontal line.

Vanessa L. Fountain



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